



the mother of two of the minor Plaintiffs, B.A.K. and B.S.K., rejected the structured settlement originally recommended by the GAL and instead requested that her children's settlement proceeds be placed in trust. The GALs submitted their original reports on October 27, 2021, Polaris filed its Limited Objection to the GALs' original Reports on November 3, 2021, and the matter was set for hearing on November 10, 2021. Due to the last-minute objection lodged by B.A.K. and B.S.K.'s mother, on November 8, 2021, Plaintiffs moved to continue the November 10, 2021 hearing to December 16, 2021 so that the Plaintiffs could prepare the required trust documents for the trust requested by B.A.K. and B.S.K.'s mother. The GALs incurred approximately \$21,000 in additional fees and expenses between the filing of their original Reports on October 27, 2021 and the filing of their Amended Reports on December 6 and 7, 2021. Polaris certainly should not be forced to pay the additional approximately \$21,000 in GAL fees and expenses incurred because B.A.K. and B.S.K.'s mother objected to the structured settlement proposed by the GAL.

### **DISCUSSION**

On October 27, 2021, the GALs submitted their confidential Reports to the Court. Both GALs found:

- the aggregate settlement amount to be fair and reasonable;
- the allocation of the settlement proceeds equally among the four Plaintiffs to be fair and reasonable;
- that Plaintiffs' counsel should be awarded a 37% attorney's fee out of each Plaintiff's recovery;
- that Plaintiffs' counsel's expenses should be reimbursed to Plaintiffs' counsel out of each Plaintiff's recovery;
- ***that the minors' settlement proceeds be used to purchase annuities to allow for tax-free growth and the payment of college expenses;*** and
- that Polaris should be ordered to pay the GALs' fees and expenses.

Polaris had no objection to any of the recommendations in the original GAL Reports other than the proposal that Polaris pay the GALs' fees and expenses. On November 3, 2021, Polaris filed a Limited Objection to Guardian ad Litem's Reports and Recommendations because, based on the discussions of counsel for the parties at the time of the settlement and as memorialized in Paragraph 8(c) of the Settlement Agreement, Polaris understood that it was obligated to pay the one-time lump-sum settlement payment and nothing more. (Dkt. 169.) The matter was set for hearing on November 10, 2021. (Dkt. 163.)

Thereafter, Polaris learned that B.A.K. and B.S.K.'s mother objected to the structured settlement proposed by GAL Faith Bruner and instead wanted her children's settlement proceeds placed in trust. In order to work through these issues, on November 8, 2021, Plaintiffs filed an Unopposed Motion for Continuance of Hearing Regarding Settlement Involving Minor Plaintiffs. (Dkt. 170.) Absent the objection raised by B.A.K. and B.S.K.'s mother, the parties would have been ready to proceed with the hearing on November 10, 2021.

Polaris has no objection to B.A.K. and B.S.K.'s settlement proceeds being placed in trust and understands that B.A.K. and B.S.K.'s mother was seeking better investment returns for her children and greater flexibility relating to access to the settlement proceeds. Polaris's only objection is being forced to pay for the additional fees incurred to accomplish this.

When the original GAL Reports were filed Ms. Bruner was seeking \$18,068.70 in fees and Ms. Ginsburg Guerrero was seeking \$11,970.00 in fees, for a total of \$30,038.70. In the Amended Reports, Ms. Bruner is seeking \$31,245.20 in fees and expenses and Ms. Ginsburg Guerrero is seeking \$19,811.00 in fees, for a total of \$51,056.20. Thus, the GAL fees and expenses have increased by \$21,017.50 as a result of B.A.K. and B.S.K.'s mother's desire to have greater investment returns and greater access to the settlement proceeds. While Polaris does not have any

objection to B.A.K. and B.S.K.'s settlement proceeds being placed in trust, Polaris does object to being forced to pay the GAL fees associated with this change in how the settlement funds will be invested for B.A.K. and B.S.K.

**CONCLUSION**

For the reasons set forth above, Defendants ask this Honorable Court to Order the Plaintiffs to pay the reasonable and necessary fees and expenses of the Guardians Ad Litem, and for such other and further relief as this Court finds just.

Respectfully submitted,

Date: December 13, 2021

/s/ Dawn M. Beery  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this the 13<sup>th</sup> day of December, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to each counsel of record. To the extent any such counsel is not registered for such electronic delivery, the foregoing document will be served in accordance with the Federal Rules of Civil Procedure.

/s/ Dawn M. Beery  
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